

USDC SDNY
DOCUMENT
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DATE FILED: 9/12/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

RIGOBERTO VELASCO,

Defendant.

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:
:
:
STIPULATION AND
INTERLOCUTORY ORDER
OF SALE
07 Cr. 275 (LAP)

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WHEREAS, on or about April 9, 2007, RIGOBERTO VELASCO (the "defendant"), was charged in a two-count Indictment, 07 Cr. 275 (LAP) (the "Indictment"), with conspiracy to distribute and possess with intent to distribute a controlled substance, in violation of 21 U.S.C. § 846 (Count One), and with conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h) (Count Two); and

WHEREAS, the Indictment contained a forfeiture allegation providing notice that as a result of committing the offenses alleged in Counts One and Two of the Indictment, the defendant shall forfeit to the United States, pursuant to 21 U.S.C. § 853, any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offenses, and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the offenses; and

WHEREAS, the Government subsequently filed, on April 11, 2007, a forfeiture bill of particulars providing notice that the property subject to forfeiture as a result of the offense described in Count One of the Indictment includes the following:

The house and property located at 30-51 82nd Street,
Elmhurst, New York 11372

(the "Subject Property"); and

WHEREAS, the Subject Property is also know as all that
lot or parcel of land, together with its buildings,
appurtenances, improvements, fixtures, attachments and easements,
located at 30-51 82nd Street, Jackson Heights, New York, and is
designated in the Queens County Tax Map as Block 1380, Lot 52,
and is more fully described in Exhibit A attached hereto; and

WHEREAS, the title of the Subject Property is held in
the name of defendant RIGOBERTO VELASCO; and

WHEREAS, a foreclosure action has been brought against
the Subject Property in Queens County Court for a mortgage that
is in default; and

WHEREAS, the parties stipulate and agree that an
interlocutory sale of the Subject Property is necessary in order
to prevent its deterioration before the conclusion of the
criminal case, with the net proceeds of the sale to be held
pending further order of this Court;

NOW THEREFORE, IT IS HEREBY STIPULATED, AGREED AND
ORDERED THAT:

1. The United States and Rigoberto Velasco, the
defendant, agree to the interlocutory sale of the Subject
Property.

2. In furtherance of the interlocutory sale, the
parties agree to execute promptly any documents which may be
required to complete the interlocutory sale of the Subject

Property.

3. The parties agree that the United States Marshals Service ("USMS") will market and sell the Subject Property pursuant to the following terms:

- a. The Subject Property will be listed with a licensed real estate broker selected by the USMS.
- b. The USMS may, in its sole discretion, reject any offer to purchase the Subject Property where it determines that the offer is being made by, or on behalf of, a person involved in the criminal activity alleged as the basis for forfeiture.
- c. The cumulative net proceeds shall be remitted to the custody and control of, and shall be held by, the USMS in the Seized Asset Deposit Account pending further order of the Court. Said proceeds, and any and all income or interest accrued thereon, shall serve as a substitute res for the Subject Property in this case.
- d. The net proceeds from the sale of the Subject Property will include all money realized from the sale of the Subject Property, except for the following:
 - (1) All costs incurred by the USMS in connection with the maintenance, repair, marketing, and sale of the defendant property, including attorneys' fees, real estate commissions, real estate or property taxes which are due and owing, insurance costs, escrow fees, document recording fees not paid by the buyer, title fees, and county transfer fees.
 - (2) Amounts due to a bona fide purchaser for value who holds a valid lien that was recorded prior to the time the United States' lis pendens was recorded.

4. The net proceeds realized from the sale of the Subject Property shall be the substitute res for the Subject Property in the above-captioned criminal case, and shall be held by the USMS in the Asset Forfeiture Fund pending further order of

this Court.

5. Neither the United States nor RIGOBERTO VELASCO, the defendant, waive any arguments or defenses that they may have with respect to the forfeitability of the Subject Property.

6. The signature pages of this Stipulation and Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Fax copies shall be treated as originals.

7. Each party shall bear its own costs and attorney's fees.

8. The Court shall have exclusive jurisdiction over the interpretation and enforcement of this Stipulation and Order.

9. This Stipulation and Order constitutes the complete agreement between the signatories hereto and may not be amended except by written consent thereof.

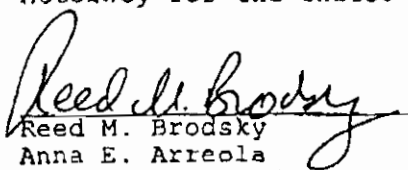
10. The Clerk of the Court shall forward four certified copies of this Order to Assistant United States Attorney Anna Arreola, One St. Andrew's Plaza, New York, New York, 10007.

Dated: New York, New York
September ____, 2008

CONSENTED TO:

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for the United States

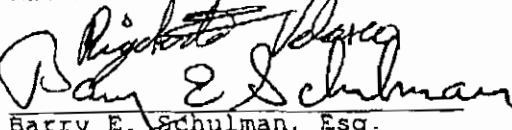
By:


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9/10/08
DATE

RIGOBERTO VELASCO

By:


Barry E. Schulman, Esq.
Law Office of Barry E. Schulman
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9/15/08
DATE

SO ORDERED.

September 12, 2008



THE HONORABLE LORETTA A. PRESKA
United States District Judge
Southern District of New York

EXHIBIT A

Schedule A Description

Order EAM3193Q

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ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of 82nd Street (formerly 25th Street), distant 125 feet northerly from the corner formed by the intersection of the said easterly side of 82nd Street and the northerly side of 31st Avenue, 80 feet wide (formerly Patterson Avenue);

RUNNING THENCE easterly at right angles to said easterly side of 82nd Street, 100 feet;

THENCE northerly and parallel to said easterly side of 82nd Street, 25 feet;

THENCE westerly and at right angles to the easterly side of 82nd Street, 100 feet to the said easterly side of 82nd Street;

THENCE southerly and along said easterly side of 82nd Street, 25 feet to the point or place of BEGINNING.